

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
1998 Biennial Regulatory Review – Streamlined	)	
Contributor Reporting Requirements Associated	)	CC Docket No. 98-171
With Administration of Telecommunications	)	
Relay Service, North American Numbering Plan,	)	
Local Number Portability, and Universal Service	)	
Support Mechanisms	)	
	)	
Telecommunications Services for Individuals	)	CC Docket No. 90-571
with Hearing and Speech Disabilities, and the	)	
Americans with Disabilities Act of 1990	)	
	)	
Administration of the North American	)	CC Docket No. 92-237
Numbering Plan and North American	)	NSD File No. L-00-72
Numbering Plan Cost Recovery Contribution	)	
Factor and Fund Size	)	
	)	
Number Resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170

**REPLY TO OPPOSITIONS TO AND COMMENTS ON  
PETITION FOR PARTIAL RECONSIDERATION AND CLARIFICATION**

The United States Telecom Association (USTA),<sup>1</sup> through the undersigned and pursuant to Section 1.429 of the rules<sup>2</sup> of the Federal Communication Commission (FCC), hereby submits its reply to the oppositions to and comments on the Petition of the United States Telecom

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<sup>1</sup> USTA is the nation's oldest trade organization for the local exchange carrier industry. USTA's carrier members provide a full array of voice, data, and video services over wireline and wireless networks.

<sup>2</sup> 47 C.F.R. § 1.429.

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Association for Partial Reconsideration and Clarification filed in the proceeding referenced above (the Petition).<sup>3</sup>

As it did in the Petition, USTA urges the FCC to recognize that in making changes to the current mechanism for assessing contributions to the federal universal service fund (USF) in its Report and Order and Second Further Notice of Proposed Rulemaking (the Order),<sup>4</sup> it has created opportunities for inequity. USTA believes that these inequities can be easily corrected as described in detail in the Petition and summarized as follows. First, USTA again asks the FCC to make clear that what is often referred to as the “no-averaging rule”<sup>5</sup> does not apply to Centrex service. In other words, USTA has requested that the FCC clarify that carriers may continue to recover the increment after applying the equivalency amount of one-ninth of the full USF contribution assessment to Centrex lines permitted under section 69.158 of the FCC’s rules<sup>6</sup> by

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<sup>3</sup> *Federal-State Joint Board on Universal Service*, Petition of the United States Telecom Association for Partial Reconsideration and Clarification, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170 and NSD File No. L-00-72 (Jan. 29, 2003) (Petition).

<sup>4</sup> *Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms; Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990; Administration of the North American Numbering Plan and North American Numberings Plan Cost Recovery Contribution Factor and Fund Size; Number Resource Optimization; Telephone Number Portability; Truth-in-Billing and Billing Format*, Report and Order and Second Further Notice of Proposed Rulemaking, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72 (rel. Dec. 13, 2002) (Order).

<sup>5</sup> The “no-averaging” rule is the FCC rule that carrier’s USF charges on customer bills may not exceed the interstate telecommunications portion of the bill times the relevant contribution factor. See Order at ¶¶45, 51.

<sup>6</sup> 47 C.F.R. §69.158.

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averaging the remaining eight-ninths of the USF contribution across the multi-line business (MLB) customer class. Second, USTA again asks the FCC to permit averaging of USF contribution charges over a customer class to account for the inability of billing systems to assess customer-specific USF contributions on certain incidental interstate services. Third, USTA again urges the FCC to allow all carriers to recover their legitimate administrative costs in a similar manner that does not discriminate against price cap carriers who recover costs differently. Specifically, USTA has asked the FCC to permit carriers to include an incremental amount, subject to a cap, in their billed universal service contribution line item to recover their administrative costs.

### **ARUGMENT**

USTA responds to the oppositions filed by the National Association of State Utility Consumer Advocates (NASUCA), the Ad Hoc Telecommunications Users Committee (Ad Hoc), and WorldCom, Inc. (WorldCom). WorldCom, alone among commenters, objected to USTA's request that the FCC clarify the Order with regard to Centrex service, arguing that the FCC's no-averaging rule contains no exception for Centrex.<sup>7</sup> WorldCom ignores, however, the inconsistency between the Order and the FCC's long-standing equivalency policy codified in section 69.158 of the FCC's rules. In so doing, WorldCom appears to be attempting to create a competitive advantage for itself by increasing others' Centrex service charges so that Centrex is

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<sup>7</sup> *Federal-State Joint Board on Universal Service*, WorldCom, Inc. Comments on Petitions for Reconsideration, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72 (Feb. 27, 2003) (WorldCom Comments) at 5.

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not competitive with its own PBX service. Contrary to WorldCom's claim, USTA is not asking for an exception for Centrex service but, rather, simply that the FCC make clear that it intended to apply its own long-standing policy of permitting carriers to apply a USF charge at one-ninth of the rate assessed on trunks so that Centrex customers are treated similarly to PBX customers.<sup>8</sup>

As the Association for Telecommunication and Technology Professional Serving State Government (NASTD) points out, the Centrex equivalency ratio was established to preserve competitive neutrality in the treatment of Centrex and PBX services, and, therefore, the FCC should clarify the Order to affirm that the status quo is not changing on the use of the equivalency ratio in assessing USF charges to Centrex customers.<sup>9</sup> Moreover, applying the Centrex equivalency ratio in the interim contribution methodology comports with what the FCC would do in the connections-based proposals it is currently considering.<sup>10</sup>

NASUCA opposes USTA's proposal to allow averaging over a customer class to account for the difficulty of recovering USF contributions assessed on certain incidental interstate services, such as the end-user presubscribed interexchange carrier (PIC) change charge and the presubscribed interexchange carrier charge (PICC), because, NASUCA says, such averaging

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<sup>8</sup> See Petition at 9-10.

<sup>9</sup> *Federal-State Joint Board on Universal Service*, Letter of NASTD, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72 (Feb. 28, 2003) at 1. See also *Federal-State Joint Board on Universal Service*, Comments of Verizon on Petitions for Reconsideration and Clarification, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72 (Feb. 27, 2003) (Verizon Comments) at 2.

<sup>10</sup> Order at ¶¶76, 87.

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results in some customers paying USF costs that should be paid by other customers.<sup>11</sup>

NASUCA's argument ignores the fact that the only reason for USTA's request to allow averaging is that many local exchange carriers' billing systems are currently unable to identify certain interstate costs on a customer-specific basis for purposes of USF billing.<sup>12</sup> If the FCC were to allow the amounts that would otherwise apply to individual customers to continue to be averaged and added to the factor that is billed to all customers within a given customer class in a state, local exchange carriers would be able to recover their USF assessment on these interstate charges. For customers of carriers that have such billing difficulties, such as Verizon Telephone Companies (Verizon), BellSouth Corporation (BellSouth) and SBC Communications, Inc. (SBC), the effect would be a *de minimis* increase of only about a penny per line per month over what would otherwise be charged.<sup>13</sup>

NASUCA also argues against permitting price cap carriers the flexibility they need to recover administrative costs, stating that administrative cost recovery is an issue for these carriers only when their rates are at the price cap, in which case, NASUCA implies, they do not

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<sup>11</sup> *Federal-State Joint Board on Universal Service*, NASUCA's Opposition to Petitions for Reconsideration, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72 (Feb. 27, 2003) (NASUCA Opposition) at 5. *See also* WorldCom Comments at 6.

<sup>12</sup> *See* Petition at 12.

<sup>13</sup> *Federal-State Joint Board on Universal Service*, Reply to Oppositions to Interim Waiver filed by Verizon, SBC, and BellSouth, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72 (Feb. 26, 2003) at 5.

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deserve any recovery.<sup>14</sup> NASUCA ignores the fact that unnecessarily limiting price cap carrier's administrative cost-recovery options violates Section 254(d) of the Telecommunications Act of 1996, which requires every telecommunications carrier to contribute to the USF on "an equitable and nondiscriminatory basis."<sup>15</sup> As SBC notes, "the Commission must provide a mechanism for price cap ILECs to recover their administrative costs; otherwise it will be discriminating against price cap ILECs in contravention of section 254."<sup>16</sup> USTA noted in the Petition that the Order effectively gives price cap carriers the unsatisfactory choice of recovering administrative costs through a separate line item or through interstate rates.<sup>17</sup> Under the Order, price cap carriers would have to add a new line item to recover the administrative expense of an existing line item, which is needlessly bureaucratic and causes customer confusion and annoyance. Furthermore, in order to recover costs through interstate rates, carriers would have to show that such costs merit exogenous treatment. Even if the FCC were to accept an exogenous showing, price cap carriers have only a limited range of existing interstate rates through which to effect recovery, such as MLB PICC and the MLB subscriber line charge (SLC).<sup>18</sup> Effectively, this would mean that the only way price cap carriers could get USF recovery would be by charging interexchange

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<sup>14</sup> NASUCA states, "Yet this is only an issue where the carriers' rates are at the price cap ceiling, and there is no 'headroom' to allow recovery through rates. It is difficult to muster much sympathy for the carriers that experience this problem." NASUCA Opposition at 5.

<sup>15</sup> 47 U.S.C. §254(d).

<sup>16</sup> *Federal-State Joint Board on Universal Service*, Comments of SBC Communications Inc., CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72 (Feb. 27, 2003) at 6 (SBC Comments).

<sup>17</sup> Petition at 6-7.

<sup>18</sup> *Id.*

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(IXC) wholesale customers in their access charges to recover sums associated with end user SLCs and MLB PICC retail revenues rather than charging the customers who incur and should pay such costs. Not only is this result inconsistent with NASUCA's argument against charging one group of customers for another group's universal service costs, it is inconsistent with the FCC's principle of cost causation in that it would leave IXCs paying local exchange carriers' administrative costs without a way to recover those costs other than raising end-user toll rates.

Like NASUCA, Ad Hoc opposes USTA's request for permission to include administrative costs in USF contribution charges.<sup>19</sup> Ad Hoc argues that inclusion of administrative costs will allow carriers to recover more than their legitimate administrative costs. It notes that these costs are low and argues that they should be capped at one percent of USF contributions collected.<sup>20</sup> USTA agrees that the administrative costs of collecting and remitting USF contributions under the current system are not substantial. Nevertheless, the administrative costs of changing billing systems and recovery mechanisms are likely to be significant. For example, Verizon and BellSouth estimate that it will take their companies some 5,100 and 4,000 hours, respectively, to revamp their methods of calculating USF assessments just to permit them to bill individual customers in connection with incidental services.<sup>21</sup> SBC estimates that "tens of thousands" of programming hours will be required to make the necessary changes to its billing

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<sup>19</sup> *Federal-State Joint Board on Universal Service*, Opposition to Petition for Reconsideration filed by Ad Hoc, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72 (Feb. 27, 2003) at 4 (Ad Hoc Opposition).

<sup>20</sup> *Id.*

<sup>21</sup> Verizon Comments at 5.

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and related systems.<sup>22</sup> USTA's proposal to include an incremental amount in the billed USF line item to recover such costs caps the amount and suggests that once a carrier's costs in changing its billing system have been recovered, that carrier would only include the incremental amount for ongoing administrative expenses in its USF line item.<sup>23</sup> As Ad Hoc suggests, that continuing expenses in most cases should not exceed one per cent of a carrier's USF contribution.<sup>24</sup>

Unlike NASUCA and Ad Hoc, most parties filing in this proceeding agree with USTA regarding the recovery of administrative costs. SBC points out that these costs are legitimate expenses that deregulated carriers should be allowed to recover.<sup>25</sup> Sprint agrees with USTA that price cap carriers face a heavier burden of recovering administrative costs through their rates than other carriers and that permitting customer class averaging largely would alleviate concerns about cost recovery.<sup>26</sup> Sprint points out that the FCC has permitted CMRS carriers to average their customers USF obligations and states, "there is no reason why similar relief should not be granted to wireline local exchange carriers as well."<sup>27</sup> AT&T states, "all carriers should be permitted to recover their administrative costs through the USF recovery line-item."<sup>28</sup>

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<sup>22</sup> SBC Comments at 6.

<sup>23</sup> Petition at n.18.

<sup>24</sup> Ad Hoc Opposition at 4.

<sup>25</sup> SBC Comments at 2, 6.

<sup>26</sup> *Federal-State Joint Board on Universal Service*, Comments of Sprint on Petitions for Reconsideration, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72 (Feb. 27, 2003) at 4.

<sup>27</sup> *Id.* at 2.

<sup>28</sup> *Federal-State Joint Board on Universal Service*, AT&T Comments on Petitions for Reconsideration and Clarification, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72 (Feb. 27, 2003) at 6.



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## CONCLUSION

For the foregoing reasons, USTA respectfully asks the FCC to make the clarifications described in USTA's Petition in order to ensure that carriers contribute to the universal service fund on an equitable and nondiscriminatory basis.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of USTA's Petition for Partial Reconsideration and Clarification in CC Docket Nos. 95-45, 98-171, 90-571, 92-237, 99-200, 95-116 and 98-170 was served on this 10th day of March 2003 to the attached service list.

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